

The Consumer's Edge

Consumer Protection Division, Maryland Attorney General's Office

Issue # 137

Landlord Foreclosure Update

Most Americans are well aware that the current foreclosure crisis affects homeowners. However, foreclosures also affect tenants. When landlords default on their mortgages and the rental properties enter foreclosure, renters face the prospect of being forced out. If tenants discover that their landlords are in foreclosure, there are appropriate steps to take and issues to consider.

During the foreclosure process, ownership of the rental property eventually is transferred from the landlord to the bank or to a new owner. Until the completion of the process, the landlord retains the right to collect rent from tenants. If a tenant discovers that his/her landlord is in the process of foreclosure but the court has not yet finally approved the transfer of the property to a new owner, the tenant must continue to pay rent. If the tenant stops paying rent, the landlord can go to court to evict the tenant for failing to pay.

Even if the landlord is in foreclosure or facing financial difficulties, the landlord is still obligated to maintain the property. If a landlord fails to repair serious or dangerous defects in a rental unit, the tenant has the right to pay rent into an escrow account established at the local district court. However, the law is very specific on the conditions and procedure to begin putting rent in escrow. Call the Consumer Protection Division at 410-576-6500 for the publication, "Landlords and Tenants: Tips on Avoiding Disputes," for more information (also available online at www.oag.state.md.us/consumer).

The tenants should receive notice from the court alerting them when foreclosure proceedings have been instituted against the property they are occupying. Tenants should receive three separate written

notices concerning the foreclosure: the first should be sent simultaneously with the filing of an order to docket or complaint to foreclose; the second should be received no earlier than 30 days, but no later than 10 days before the sale date to inform the tenant of the date, time and place of the sale; the third notice is prior to the tenant's eviction. The written notices must be sent first class and include pertinent information about the foreclosure proceedings and information regarding who the tenant may contact for further information.

Under a new federal law known as the Protecting Tenants at Foreclosure Act, even though the foreclosure sale is completed and the transfer to a new owner has been approved, the new owner must allow a residential tenant to remain in the property until the lease expires or, if the tenant has a month-to-month lease, for 90 days. However, a new owner who intends to reside in the property does not need to honor the tenant's lease. If the purchaser does not intend to oc-

cupy the home as a primary residence, in most instances, tenants will be able to remain in the home under the same terms and conditions. After that, there is a possibility that the new owner may be open to creating a new lease with the tenant. Remember, the new owner is not obligated to

continue the same lease terms upon renewal.

In order to avoid going to court to evict the tenant, some new owners may offer money or "cash-for-keys" to tenants as an incentive to move out quickly. In a "cash-for-keys" scenario, either the bank or the new owner offers the occupants of a home in the foreclosure process a cash settlement in exchange for vacating the property. Tenants should be very careful of these offers because, as part of the arrangement, tenants may waive rights they have against the new or previous owner. This can include the return of a security deposit



and any recovery for utility shutoffs, maintenance disrepair and code violations. Tenants should have an attorney look at the agreement before signing and waiving any rights.

Although a tenant may have to move out within 90 days following the completion of the foreclosure process, renters still have rights against the original landlord. The renter can go to court and sue the prior landlord for breaching the lease agreement by failing to provide the rented property for the entire lease term. He/she can ask for damages incurred in moving and apartment searching, application fees and any difference in price between an old and new apartment of comparable quality. However, if the tenant's lease is honored through the end of the lease term or the tenant is a month-to-month tenant, the foreclosure itself is not a breach of the lease. If the landlord fails to return the security deposit, the renter is entitled to seek recovery in court and may be entitled to compensation up to three times the deposit amount.

For more information regarding tenant rights, contact the organization geared toward your needs:

- **Office of the Attorney General**
(www.oag.state.md.us / 410-576-6500) The Consumer Protection Division offers mediation service for consumers who have disputes with businesses.
- **Public Justice Center**
(www.publicjustice.org / 410-625-9409) The PJC educates, provides legal advice and offers representation to both individuals and organized tenant groups.
- **Baltimore Neighborhoods, Inc.**
(www.bni-maryland.org / 410-243-4468) BNI works to improve landlord/tenant relationships by informing both of their legal rights. They serve residential landlords and tenants through Maryland, with the exception of Montgomery County.
- **Maryland Legal Aid Bureau**
(www.mdlab.org / 410-951-7777) Legal Aid determines financial eligibility for general legal services based on income and assets available to the household using Federal Poverty Income Guidelines. It also represents tenants in disputes with landlords.

Volunteer Opportunities and Internships

Do you like to help people? Do you live in the Baltimore area? Then come volunteer in the Attorney General's Consumer Protection Division.

Our volunteers respond to consumer inquiries on the telephone hotline, and mediate consumer complaints against businesses and health care providers. You will receive training in mediation and learn valuable skills. The division also offers college and law students a variety of internship opportunities.

Our downtown office is convenient to the Light Rail and Metro, and volunteers receive a travel stipend. No experience necessary. Interested? Call 410-576-6519.

Attorney General's Consumer Offices

Consumer Protection Division
200 St. Paul Place, 16th Fl.
Baltimore, MD 21202-2021

- General Consumer Complaints: 410-528-8662
Toll-free: 1-888-743-0023
TDD: 410-576-6372
9 a.m. to 3 p.m. Monday-Friday
- Medical Billing Complaints: 410-528-1840
9 a.m. to 4:30 p.m. Monday-Friday
To appeal health plan claims decisions:
Toll-free within Maryland 1-877-261-8807

Branch Offices

- Cumberland
301-722-2000
9 a.m. to 12:00 p.m. 3rd Tuesdays
- Frederick
301-600-1071
9 a.m. to 1:00 p.m. 2nd and 4th Thursdays
- Hagerstown
301-791-4780
8:30 a.m. to 4:30 p.m. Monday-Friday
- Salisbury
410-713-3620
8:30 a.m. to 4:30 p.m. Monday-Friday
- Southern Maryland (Hughesville)
301-274-4620
Toll-free 1-866-366-8343
9:30 a.m. to 2:30 p.m. Tuesdays

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Douglas F. Gansler, Attorney General